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8 UNITED STATES DISTRICT COURT
9 WESTERN DISTRICT OF WASHINGTON
10 AT SEATTLE
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12 BRADLEY J. TOWNSSELL,

13 Plaintiff,

14 v.

15 MICHAEL J. ASTRUE, Commissioner of
16 the Social Security Administration,

17 Defendant.

18 CASE NO. C10-1221MJP

19 ORDER ADOPTING REPORT AND
20 RECOMMENDATION

21 The above-entitled Court, having received and reviewed

22 1. The Magistrate Judge's Report and Recommendation (Dkt. No. 18)
23 2. Appellant's Objections to Report and Recommendation (Dkt. No. 19)
24 3. Respondent's Response to Petitioner's Objections (Dkt. No. 20)

25 and all attached declarations and exhibits, makes the following ruling:

26 IT IS ORDERED that the Report and Recommendation is ADOPTED, the final decision
27 of the Commissioner of Social Security is AFFIRMED, and the case is DISMISSED with
28 prejudice.

Discussion

2 Plaintiff objects generally to the Magistrate Judge’s Report and Recommendation (“R&R”)
3 affirming the Social Security Commissioner’s decision to deny Plaintiff’s application for
4 Disability Insurance Benefits. Plaintiff raises three objections: (1) the ALJ made errors of law by
5 failing to adopt the VA determination that Plaintiff was disabled; (2) the ALJ’s decision was not
6 supported by sufficient evidence; and (3) the ALJ erred by “dismissing” the testimony of the
7 vocational expert. The Court adopts in full the analysis in the R&R and adds the following
8 discussion only to address Petitioner’s objections directed toward the R&R.

1. Disregarding the VA finding

10 Plaintiff argues the ALJ committed legal error “when he failed to accept the rating of the
11 [VA] that Plaintiff was 70% permanently disabled and 100% unemployable.” (Pl. Obj. at 4.)
12 The Magistrate Judge adequately addressed this argument and found the ALJ sufficiently
13 supported his conclusion differing from the VA determination. Plaintiff’s objection to the R&R
14 fails to point out any error in the R&R.

2. Substantial Evidence

16 Plaintiff argues that because the ALJ did not find his testimony credible, the ALJ should
17 not be permitted to consider any statements made by Plaintiff at any time. (Pl. Obj. at 7.) The
18 ALJ is not precluded from considering statements Plaintiff made to his doctors. Additionally,
19 the ALJ explained that the credibility of Plaintiff's testimony was eroded by Plaintiff's
20 admission of ten years of drug use and the fact that Plaintiff 's lowest GAF score occurred when
21 he was seeking VA disability benefits. The ALJ's credibility determination and resulting
22 disability determination were based on substantial evidence in the record. Accordingly, the
23 Court does not disturb these determinations.

3. Vocational Expert

Plaintiff objects to the R&R’s finding that Plaintiff was not “the hypothetical individual” referenced by the vocational expert. (R&R at 7.) Plaintiff argues that “he is, in fact, more disabled than the hypothetical individual[.]” (Pl. Obj. at 7 (internal quotations omitted).) This objection fails because it relies on challenging the factual determinations made by the ALJ that are supported by the record. The R&R correctly observed the ALJ found Plaintiff suffered no functional limits and this finding was based on evidence in the record. Plaintiff’s objection is without merit.

Conclusion

The Court ADOPTS the Report and Recommendation. Plaintiff's objections are the same as his arguments to the Magistrate Judge. The Magistrate Judge correctly found the ALJ's decision was free of legal error and was supported by substantial evidence. The ALJ's decision is AFFIRMED and the case is DISMISSED with prejudice.

The clerk is ordered to provide copies of this order to Plaintiff and all counsel.

Dated: February 22, 2011.


Marsha J. Pechman
United States District Judge